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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
CARLSON, JEFFREY D	
ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
08/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/773,943	JACOBY ET AL.	
	Examiner	Art Unit	
	Jeffrey D. Carlson	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the paper(s) filed 4/28/2009.

■

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 4-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtz et al (US6760916) in view of Gupta et al ('009) (US7111009) and Kazmi (provisional) (60/263058).

4. Holtz et al qualifies as prior art under 102(e) and includes a chain of CIP applications to an earliest effective date of 1/14/2000. The parent application 09/634735 filed 8/8/2000 (which is also incorporated by reference in to Holtz et al) has been relied upon by the examiner previously in order to demonstrate full support for the teachings used against the instant claims – and will continue to be applied here. Examiner will be referring to page and line number of the specification of 09/634735 in this Office Action.

5. Kazmi (provisional) - US Provisional application 60/263058, filed 1/18/2001 (provides priority to US PGPUB 20040215718) represents prior art as a 102(e) reference. Examiner will be referring in this office action to pages within the 27 page specification filed as 60/263058.

6. Regarding claims 1, 6, 8, 9, 12-14, 16, 17, 19, 20, 24-25, Holtz et al teaches an Internet user browsing a web page in order to select media segments of a show for "on-demand" viewing. After the user selects a plurality of desired media clips in a certain order, the system creates a "bin" playlist defining the collection of desired clips in the specific order. Each clip/segment in the collection represented by the playlist is identified (i.e. referenced by) by time code stamps and identification labels. After the playlist is complete, the streaming media referenced therein is delivered to the player in the user's browser [page 70 lines 8-23 of 09/634735]. In this manner, a playlist is created at a network source based upon requested user information (clip selection information, clip arrangement information). Holtz et al appears to be silent on whether the user's browser receives the playlist file (i.e. the metadata) in order to accomplish the streaming delivery of the customized sequence of media segments. Holtz et al however explains that a "continuous stream of media segments without multiple interruption" is desired [page 71 lines 14-15] over previous methods which cause the client/browser to buffer each segment separately, causing interruptions between segments [page 71 lines 2-10]. Gupta et al ('009) teaches an interactive web site where users can create/assemble and re-assemble customized playlists for a media presentation [14:21-23, 15:53-59, 16:3-5]. Gupta et al ('009) describes that the collection of media segments associated with the playlist are presented to the user in a continuous fashion with "very little or no noticeable gap between segments" [15:65-16:1]. Gupta et al ('009) accomplishes the seamless user presentation by sending the playlist to the user's

browser so that the browser can manage the streaming according to the stored playlist metadata [15:45-53, 16:20-28]:

> interface 150 of FIG. 3 provides the list of annotation identifiers being displayed to web browser 153 (or other multimedia presentation application) in the order of their display, including the target identifier and temporal range information. Thus, web browser 153 receives a list of multimedia segments that it is to present to the user in a particular order. Web browser 153 then accesses media server 11 to stream the multimedia segments to client 15 for presentation in that order.
>
> Web browser 153, knowing the duration of each of the segments being provided to client computer 15, forwards additional messages to media server 11 to continue with the provision of the next segment, according to the playlist when appropriate. By managing the delivery of the media segments to client computer 15 in such a manner, web browser 153 can keep the media segments being provided to the user in a seamless manner.

Further, Gupta et al ('009) teaches that the user may export the playlist (i.e. save the playlist) so that the previously-assembled presentation defined by the exported playlist can be enjoyed by the user (or others if shared) at a later time, without the need to re-browse/re-query/re-assemble the available media segments into a new playlist [15:13-23, 16:36-43]. It would have been obvious to one of ordinary skill at the time of the invention to have employed the techniques of Gupta et al ('009) (send the playlist to the user's browser) in order to achieve the seamless playback of playlisted segments desired by Holtz et al. Doing so delivers a playlist to the browser which then accesses the server(s) having the content and advertising segments so that they may be streamed to the browser under control of the browser. The playlist of Holtz et al is consistent with well accepted definitions of a playlist in that the playlist contains references to content rather than containing copies of the content. In the case of Holtz et al, the references are to requested media clips that are streamed seamlessly to the user's browser/player in a manner as defined by the bin playlist. Advertisements can

actually be located elsewhere and still be referenced for inclusion throughout the presentation [page 72 lines 26-27] . The clips themselves are stored on RDP 129 and a script can be used to reference the clips by time stamp in order to retrieve the clips. When a user builds a playlist, a new script file can be created that references time stamps and appropriate time segments are inserted into the new script file. In addition, the processing unit 102 can insert additional codes into the script file to reference other data related to each media clip. These additional codes can are representative of advertising content [page 76 lines 4-20 of 09/634735]. The show script includes links (i.e. references) to advertisements which are streamed at specified intervals and duration with the video show requested [page 72 lines 20-23]; this provides applicant's claimed indicators that indicate when each advertisement should be played in relation to the media content. It would have been obvious to one of ordinary skill at the time of the invention to have provided the browser-delivered playlist rendered obvious by Gupta et al ('009) with indications that define the sequence of segments, including the advertising segments so that the presentation including content and targeted advertising may be ultimately presented to the user in the proper sequence. Neither Holtz et al nor Gupta et al ('009) teach the use of a link that includes playlist content identification as well as a parameter that specifies the position of advertising within the identified content. Kazmi (provisional) however teaches methods and systems for delivering playlisted streaming media content to a user's browser/media player. Content is stored in association with a database including content identifiers (stream ID) [page 6: lines 1-10]. The Streams2 Table also identifies each content item (streamID) and associates them with additional

metadata information such as stream format, expiration date, and importantly "ad tag" [6:11-16]. Playlists (content groups) are also associated with an ad tag [8:14]. The ad tag represents where the advertising is to be inserted [Kazmi PGPUB 0038]. Kazmi (provisional) teaches that a user desiring to listen/view streamed content may click a link [25:6-7] that identifies a playlist (content group ID=12345) [25:9]. This causes the playlist server to call the database tables including the streams2 table and the server creates a playlist using the metadata information retrieved from the tables [26:1-8]. The created playlist is then delivered to the client's browser [26:10-15] so that the client's media player can begin steaming the content items in the playlist. Kazmi (provisional) need not explicitly define the ad tag in the link because he can pull the ad parameter from the database tables using the content identifier explicitly presented in the link. However it is well known to pass variables to a server script using URL parameters; Kazmi (provisional) indeed uses this technique at the end of page 18 to specify bitrate and filename (among other specified parameters) to a server script (ingest.asp). One of ordinary skill would have recognized that the ad tag could have been explicitly defined in the URL to be passed to the server script for playlist construction (makeplaylist.asp), rather than requiring the server to pull the ad tag out of a table such as the Streams2 Table. It would have been obvious to one of ordinary skill at the time of the invention to have used such constructed links (that explicitly specify content identifiers and advertising parameters) as a way of triggering creation and delivery of playlists to the users' browsers in Holtz et al/Gupta et al ('009).

Holtz et al also teaches that a second browser frame can be provided/built such that HTML content associated with the streaming content can be displayed simultaneously adjacent the first frame of streaming content [page 72 lines 11-19]. This auxiliary content in the second frame is taken to be HTML content at least in terms of the text described by Holtz et al and the menu of related data or web sites that a user can select [page 73 lines 25-30, page 74 lines 1-8]. Holtz et al is taken to inherently include directory construction and searching for files which define the parameters of the frames in order to properly render the frames as well as the content that is rendered within them.

Regarding claims 2, 5, 10, 11, 15, the auxiliary content synchronized with the streaming content is taken to represent embedded instructions for triggering the HTML rendering of the additional content in the data frame. Holtz et al also describes the use of datacasting at page 76 line 25.

7. Regarding claims 4, 7, 18, Holtz et al teaches that advertisements views are logged [page 74 lines 16-20].

8. Regarding claims 21, 22, the auxiliary data frame of Holtz et al is taken to change continuously over time and as the streaming media progresses and/or changes. Therefore it can be said that there are plural commands to trigger changes to the HTML content displayed in the data frame. Any of the HTML content can be taken to meet the broad "default" HTML content. If the HTML content is meant to be shown, it can be said to be the default content.

9. Regarding claim 23, a user request for a custom playlist based on his user profile can be said to be a request including advertisement selection information, especially where the content involved (weather, traffic, stock market, etc) can be considered to be "advertising"; the term advertising merely requires an announcement or message delivered to the public [page 71 lines 28-30, page 72 lines 1-10]. Further still, as the advertisements are also described as being tied to the streaming media content, a media content chosen based on user profile directly affects the associated advertising selected. The user profile information provides advertisement selection information included with the request. Or, the simple manual building of a playlist by a user includes media selection which drives related advertisement selection.

10. Regarding claim 26, Holtz et al teaches that the streaming selections can be based upon content and/or duration [page 71 lines 29-30, page 76 lines 18-20].

Response to Arguments

11. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Monday-Fridays; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey D. Carlson/
Primary Examiner, Art Unit 3622

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